

1992 when he slipped on the stairs and struck his leg on the facing of a steel step. He experienced immediate swelling, numbness and pain. When the symptoms worsened, respondent referred him to Dr. Chandler Bethel. Dr. Bethel hospitalized claimant immediately and eventually referred claimant to Dr. Kenneth Hollis, a board-certified general surgeon. Dr. Hollis first saw claimant on February 5, 1992. Dr. Hollis diagnosed bilateral thrombophlebitis and at the same time diagnosed a ventral hernia and recommended surgical repair for both.

The Appeals Board agrees with the finding by the Administrative Law Judge that claimant has not met his burden of proof with regard to his claim that the ventral hernia was aggravated by work-related activities. Claimant had undergone a stomach stapling procedure performed by Dr. Charles Jenney as treatment for morbid obesity. Dr. Hollis testified that the abdominal surgery, such as that performed by Dr. Jenney, can create a greater risk of hernia. He concluded, however, that the claimant's hernia was related to the repetitive activities in claimant's work. Dr. Russell Beamer, on the other hand, gave testimony indicating the hernia could not be attributed to work activities. As noted by the Administrative Law Judge, Dr. Kenneth Hollis did not have the benefit of records from Dr. Jenney who had diagnosed the hernia as early as March 1991. Surgical repair of the hernia was postponed at that time due to claimant's morbid obesity. The Appeals Board agrees with the Administrative Law Judge's statement that the evidence, taken as a whole, establishes that the claimant's ventral hernia was a condition which developed or worsened without regard to claimant's work activities.

The Appeals Board finds, on the other hand, that claimant's bilateral thrombophlebitis was caused by the work-related injury of January 3, 1992. Although claimant struck only his right leg, Dr. Hollis testified that the resulting hospitalization and inactivity precipitated similar thrombophlebitis of the left lower extremity. On this issue the Appeals Board finds Dr. Hollis' testimony convincing. The Appeals Board, therefore, finds that claimant's injury should be treated as bilateral and that claimant is entitled to benefits for a general body disability. See Bryant v. Excel Corporation, 239 Kan. 688, 722 P.2d 579 (1986).

Two vocational experts, Maurice Entwistle and James Molski, testified regarding the effect of claimant's injuries on his ability to obtain employment in the open labor market and his ability to earn a wage comparable to that he was earning from respondent. Both Dr. Hollis and Dr. Alex Ammar recommended restrictions. Based upon those restrictions, Boeing determined it could not accommodate claimant's disability. The finding by the Administrative Law Judge that claimant has a thirty-eight percent (38%) permanent partial general impairment is based upon an analysis which gives equal weight to the two (2) vocational experts and equal weight to the two (2) prongs, loss of access to the open labor market and loss of ability to earn comparable wages. See Hughes v. Inland Container Corp., 247 Kan. 407, 799 P.2d 1011 (1990). The Appeals Board adopts as its own the findings and conclusions of the Administrative Law Judge relating to the nature and extent of claimant's disability for the bilateral thrombophlebitis. The Appeals Board, therefore, finds that the claimant has suffered and is entitled to benefits based upon a thirty-eight percent (38%) permanent partial general disability.

WHEREFORE, the Appeals Board finds the Award of Administrative Law Judge Shannon S. Krysl dated May 18, 1994 should be, and the same is hereby, affirmed.

AWARD

WHEREFORE AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Timothy Snyder, and against the respondent, Boeing Military Airplanes, and the insurance carrier, Aetna Casualty & Surety Company, for an accidental injury sustained on January 3, 1992.

The Claimant is entitled to 94.51 weeks of temporary total disability at the rate of \$289.00 per week or \$27,313.39, followed by 320.49 weeks at \$197.30 or \$63,232.68 a 38% permanent partial general body disability, making a total of \$90,546.07.

As of July 28, 1995, there would be due and owing to the claimant 94.51 weeks temporary total compensation at \$289.00 per week in the sum of \$27,313.39 plus 91.35 weeks at \$197.30, or \$18,023.36, for a total due and owing of \$45,336.75 which is ordered paid in one lump sum less any amounts previously paid. Thereafter, the remaining balance in the amount of \$45,209.32 shall be paid at \$197.30 for 229.14 weeks or until further order of the Director.

The claimant is entitled to unauthorized medical up to the statutory maximum.

Future medical benefits will be awarded only upon proper application to and approval by the Director of the Division of Workers Compensation.

The claimant's attorney fees are approved subject to the provisions of K.S.A. 44-536.

Fees necessary to defray the expenses of administration of the Workers Compensation Act are hereby assessed against the respondent to be paid direct as follows:

Barber & Associates	
Transcript of preliminary hearing	\$ 92.20
Transcript of preliminary hearing	\$ 70.40
Transcript of regular hearing	\$313.10
Deposition of Kenneth Hollis, M.D.	\$763.10
Ireland Court Reporting	
Deposition of James T. Molski	\$237.00
Deposition Services	
Deposition of Alex Ammar, M.D.	\$281.80
Deposition of Maurice Entwistle	\$263.00
Deposition of Russell Larry Beamer, M.D.	\$203.80

IT IS SO ORDERED.

Dated this ____ day of July 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Dennis L. Phelps, Wichita, KS
Frederick L. Haag, Wichita, KS
J. Philip Davidson, Wichita, KS
Shannon S. Krysl, Administrative Law Judge
David Shufelt, Director